

JAN 22 2009

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Richard Richley et al. )  
Application No. 10/518,423 )  
Filed: December 17, 2004 ) Group Art Unit: 3774  
For: DEVICES AND METHODS FOR )  
MINIMALLY INVASIVE TREATMENT )  
OF DEGENERATED SPINAL DISCS )  
Examiner: Alvin J. Stewart ) Attorney Docket No. TDYNE-305

**RESPONSE UNDER RULE 111**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This communication is submitted in response to the Office Action dated 23 October 2008 on the above-identified application. Reconsideration of this application is requested.

The rejection of claims 10-12, 15 and 36 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 6,093,207 to Pisharodi is not warranted, and is hereby traversed.

It is well established that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete a detail as is contained in the claim. Richardson v. Suzuki Motor Co., 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. In re Bond, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). The Pisharodi reference fails the test for an anticipatory reference.

In particular, all of the claims here under consideration are directed to a spinal stabilization device that has a cylindrical cage. The meaning of the term "cylindrical" is clear